

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

USR GROUP, INC.,

Appellant,

-v-

5:04-CV-1200

JEANA M. REED,

Appellee.

APPEARANCES:

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Hon. Norman A. Mordue, Chief U.S. District Judge:

MEMORANDUM-DECISION AND ORDER

This is an appeal from an Order of Hon. Robert E. Littlefield, Jr., United States Bankruptcy Judge (Bankruptcy Dkt. No. 27), converting this case, filed under Chapter 7 of the Bankruptcy Code, to a Chapter 13 case. In granting the debtor's conversion motion, Judge Littlefield held that conversion could be denied only on grounds of prior conversion or

ineligibility for Chapter 13 treatment. *See* 11 U.S.C. § 706(a),(d). He construed the Bankruptcy Code as requiring that questions such as good faith, prejudice to creditors, and feasibility be considered not in the context of the motion to convert to Chapter 13, but rather after conversion, in the context of the Chapter 13 proceeding. *See* Judge Littlefield's Memorandum-Decision (Bankruptcy Dkt. No. 21) underlying the Order on appeal, citing his decision in *In re Carrow*, 315 B.R. 8, 14-19 (Bankr. N.D.N.Y. 2004).

In *Marrama v. Citizens Bank of Mass.*, decided subsequent to Judge Littlefield's Order, the Supreme Court held that a debtor who acts in bad faith has forfeited his or her right to convert a Chapter 7 case to a Chapter 13 case. 127 S.Ct. 1105 (2007). In the instant case, on review of the entire record, the Court finds no evidence which would support a finding that the debtor acted in bad faith within the meaning of *Marrama* so as to warrant denial of the conversion motion. Accordingly, reversal and remand on this ground would be futile. The Court has reviewed *de novo* the other issues raised on appeal and finds no basis for reversal.

It is therefore

ORDERED that the order appealed from is affirmed; and it is further

ORDERED that the appeal (Dkt. No. 1) is denied.

IT IS SO ORDERED.

Dated: July 17, 2007
Syracuse, New York


Norman A. Mordue
Chief United States District Court Judge